

UNITED STATES DEPARTMENT OF JUSTICE  
OFFICE OF THE UNITED STATES TRUSTEE  
JUDY A. ROBBINS  
UNITED STATES TRUSTEE  
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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

IN RE:	§	CASE NO.
	§	
TX BLACKHORSE L.L.P.	§	10-80760-G3-11
	§	(Chapter 11)
DEBTOR	§	

**MOTION OF UNITED STATES TRUSTEE TO DISMISS  
OR, IN THE ALTERNATIVE, TO CONVERT CASE TO CHAPTER 7  
AND NOTICE OF HEARING**

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**This motion seeks an order that may adversely affect you. If you oppose the motion, you should immediately contact the moving party to resolve the dispute. If you and the moving party cannot agree, you must file a response and send a copy to the moving party. You must file the response with the United States Bankruptcy Court, 601 Rosenberg, Room 411, Galveston, TX 77550 and serve your response within 21 days of the date this was served on you. Your response must state why the motion should not be granted. If you do not file a timely response, the relief may be granted without further notice to you. If you oppose the motion and have not reached an agreement, you must attend the hearing. Unless the parties agree otherwise, the court may consider evidence at the hearing and may decide the motion at the hearing.**

**Represented parties should act through their attorney.**

**A hearing has been set on this Motion on August 23, 2011 at 11:00 a.m. in Courtroom 401, Fourth Floor, 515 Rusk, Houston, TX 77002.**

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TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, THE UNITED STATES TRUSTEE ("UST"), through the undersigned

attorney, who respectfully moves this Court under 11 U.S.C. §1112(b) for an order dismissing this case or, in the alternative, converting the case to Chapter 11. In support thereof, the UST represents as follows:

### **I. Jurisdiction**

1. Judy A. Robbins is the United States Trustee for the Southern and Western Districts of Texas.
2. The UST is an officer of the United States Department of Justice. 28 U.S.C. §581. Her duties are set forth in 28 U.S.C. §586, 11 U.S.C. §307, and throughout the Bankruptcy Code. 11 U.S.C. §101 et. seq.<sup>1</sup>
3. One significant responsibility of the UST is to supervise the administration of cases under Chapter 11 of the Bankruptcy Code. 28 U.S.C. §586. One of the duties specifically enumerated is the monitoring of the progress of cases under title 11 and taking such actions as the United States trustee deems to be appropriate to prevent undue delay in such progress. 28 U.S.C. §586(a)(3)(G).
4. The Court has jurisdiction of this matter under 28 U.S.C. §1334(a) and (b), 28 U.S.C. §157(a) and (b)(1) and 28 U.S.C. §151. This is a core proceeding under 28 U.S.C. §157(b)(2)(A).

### **II. Factual Background**

5. TX Blackhorse L.L.P. ("Debtor") commenced this case by filing a voluntary petition under chapter 11 on December 29, 2010. The Debtor checked on its petition that the nature of its business was single asset real estate as defined in §101(51B).
6. A disclosure statement and plan of reorganization were filed on March 28, 2011. At the hearing on the disclosure statement held on May 10, 2011, the Debtor announced that it did not wish to proceed and the disclosure statement (#9) was denied without prejudice.
7. The docket does not show that an amended disclosure statement has been filed.
8. Also, the docket does not show that the Debtor is filing operating reports.

### **III. Relief Sought**

9. The UST seeks an order pursuant to 11 U.S.C. §1112(b)(1) dismissing this case or alternatively converting the case to chapter 7 for failure timely to file an amended disclosure statement and to file operating reports.

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<sup>1</sup>Unless otherwise indicated, all subsequent statutory references are to Title 11 of the United States Code.

#### **IV. Basis for Relief**

10. 11 U.S.C. §1112(b)(1) provides that the Court shall convert or dismiss a case if the movant establishes cause. Section 1112(b)(4) sets forth the grounds in which a party-in-interest or the United States Trustee may dismiss a case, for cause, including-

- (A) substantial or continuing loss to or diminution of the estate and the absence of a reasonable likelihood of rehabilitation;
- (F) unexcused failure to satisfy timely any filing or reporting requirement established by this title or by any rule applicable to a case under this chapter;
- (J) failure to file a disclosure statement, or to file or confirm a plan, within the time fixed by this title or by order of the court;

11. Furthermore, BLR 1017-2(a) sets forth the grounds for dismissal for "want of prosecution" which include, but are not limited to:

- (7) the debtor's lack of diligent, prompt prosecution through filing of a plan late, missing or incomplete disclosure statement or other document required by the code, rules or orders.

12. A hearing on this Motion has been set on **August 23, 2011 at 11:00 a.m.** in Courtroom 401, Fourth Floor, 515 Rusk, Houston, TX.

WHEREFORE, the United States Trustee respectfully requests that this Court enter an order dismissing this case or, in the alternative, converting this case to chapter 7 and awarding any and all further relief as may be equitable and just.

Dated: July 29, 2011

Respectfully submitted,

JUDY A. ROBBINS  
UNITED STATES TRUSTEE

By: /s/ Ellen M. Hickman  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing MOTION OF THE UNITED STATES TRUSTEE TO DISMISS OR, IN THE ALTERNATIVE, TO CONVERT TO CHAPTER 7 AND NOTICE OF HEARING was served upon the debtor and counsel for the debtor as shown below, either by ECF or by United States mail, first class, postage prepaid, on the 29<sup>th</sup> day of July, 2011. All other parties will be served by BNC noticing.

/s/ Ellen M. Hickman  
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